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To: CAP
Cc: CHRISTOPHER.GARRETT@LW.com; Andrew.Yancey@lw.com
Subject: CAP Comment Letter
Date: Monday, September 25, 2017 3:29:16 PM
Attachments: Golden Door - CAP Comment Letter.pdf

Letter
014

Dear Ms. Soffel,

Please find attached the Golden Door's comments on the draft Climate Action Plan.

Thank you,

Samantha K. Seikkula

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I 014-1

Response to Comment Letter O14

Golden Door Properties LLC
Christopher W. Garrett of Latham & Watkins LLP
September 25, 2017

O14-1 This comment provides introductory remarks. No further response is required.

LATHAM & WATKINS LLP

September 25, 2017

Maggie Soffel
Land Use/Environmental Planner
5510 Overland Avenue, Suite 310
San Diego, CA 92123

Re: San Diego County Draft Climate Action Plan

Dear Ms. Soffel:

We represent the Golden Door Properties LLC (the “Golden Door”), an award-winning spa and resort that opened in 1958. This historic haven is situated on approximately 600 acres on the south side of Deer Springs Road in northern San Diego County (“North County”). It was the highest rated establishment in *Travel and Leisure’s* recent list of world’s best destination spas. Its property encompasses a peaceful array of hiking trails, luxurious spa amenities, tranquil Japanese gardens, and a bamboo forest. Agricultural cultivation on the property includes avocado groves and fresh vegetable gardens as well as citrus and olive trees.

The Golden Door is committed to environmental stewardship and sustainability. It uses sustainable and bio-intensive agriculture practices and has eliminated guests’ use of plastic water bottles. The owners are not seeking to expand the Golden Door, but are seeking to further enhance the Golden Door according to guiding principles, including the extensive sustainable agriculture on the surrounding acres. Reducing greenhouse gas (“GHG”) emissions to combat the threat of global climate change is an important issue for the Golden Door.

As such, we appreciate the opportunity to participate in the Climate Action Plan (“CAP”) process and provide input on the County’s efforts to reduce GHG emissions. The Golden Door is particularly concerned about GHG emissions from the proposed Newland “Sierra” Project (the “Newland Project”), a revised Merriam Mountains project on property located near Deer Springs Road. The Newland Project would implement urban residential density in a rural area of the unincorporated County, far from job and urban centers and from transit infrastructure. This unplanned development would contradict modern planning principles and the County’s General Plan and would result in long single-occupant vehicle trips causing significant GHG emissions in contrast to the County’s stated goal in the CAP. We submit the following comments on the draft CAP and draft Supplemental Environmental Impact Report (“DSEIR”).

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- O14-2** The comment provides information about Golden Door Properties LLC and expresses support for efforts to reduce GHG emissions. The County acknowledges this comment. No further response is required.
- O14-3** The comment is related to a separate project that is being processed within the County. The commenter asserts that this project is contrary to the County’s stated goal in the CAP. The County acknowledges this comment. However, the comment does not address the adequacy of the SEIR. Therefore, no further response is required or necessary. This comment will be included in the Final EIR and made available to decision makers prior to a final decision on the project.

O14-2

O14-3

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I. THE COUNTY SHOULD HALT PROCESSING PROJECTS UNTIL THE CAP IS COMPLETED

As an initial matter, the County should cease processing and approving projects until the CAP is completed. While the CAP provides avenues for General Plan Amendments not already considered within the CAP and considers pending projects within its cumulative impacts analysis, the CAP is in draft form and is subject to revisions following the public comment process.

O14-4

In particular, the County should refrain from processing the Newland Project prior to the adoption of the CAP, as doing so may result in impermissible tiering. We are concerned that the Newland Project may be attempting to tier off the CAP prior to its approval. An environmental impact report (“EIR”) may not tier off of an incomplete or future environmental document. (*Vineyard Area Citizens for Responsible Growth, Inc. v. City of Rancho Cordova* (2007) 40 Cal.4th 412, 440.) Newland’s proposed “net zero” mitigation measures—in its draft EIR published in June—do not meet the requirements of the CAP’s offset mitigation measures as currently drafted. Further, the CAP’s offset measures may be revised to provide stronger environmental protection prior to approval. As such, the Newland Project should not be allowed to tier off of the unapproved CAP, and the County should refrain from processing the Newland Project until the CAP is completed.

O14-5

The Newland Project purports to be “net zero” but does not provide adequate assurances that its offsets will actually achieve the required emissions reductions. The Golden Door provided more fulsome comments on the Newland Project’s draft EIR and its various deficiencies in its August 14, 2017 comment letter on the Newland Project’s draft EIR.

O14-6

In particular, the CAP’s offset mitigation measures provides geographic priorities for GHG offset projects, beginning with: “1) project design features/on-site reduction measures; 2) off-site within the unincorporated areas of the County of San Diego; 3) off-site within the County of San Diego; 4) off-site within the State of California; 5) off-site within the United States; and 6) off-site internationally.” (DSEIR at p. 2.7-37.) The Newland draft EIR provides a list of priorities for projects, including a “true up” provision for its operational GHG emissions offset requirement. The Newland EIR’s “true up” provision allows the County’s Planning & Development Services (“PDS”) Director to, after Project approval and without additional public input, decrease the volume of operational emissions that Newland is required to offset. This “true up” provision renders the Newland Project’s offset mitigation measure illusory.

O14-7

In contrast, the CAP does not contain any such illusory “true up” provision. The Newland Project should not be allowed to bypass more stringent offset requirements in the CAP simply by being approved prior to the adoption of the CAP. Such an approach would be improper here, where the CAP is required mitigation for the County’s General Plan EIR from 2011. (*Lincoln Place Tenants Assn. v. City of Los Angeles* (2007) 155 Cal.App.4th 425, 445 [mitigation measures must be implemented, not “merely adopted and then neglected or disregarded”].) Sprawl projects, such as the Newland Project, that cause significant GHG emissions from long automobile trips in contrast to modern planning principles, should not be allowed to bypass any GHG reduction measures in the CAP simply by seeking approval

O14-8

O14-4 The comment suggests that the County should stop processing projects until the CAP is complete. The County acknowledges this comment. However, the commenter does not address the adequacy of the Draft SEIR or support the assertion that project processing should be halted. There is no basis presented to support the assertion that the County should not process or approve projects until a CAP is approved. Therefore, no further response is provided or necessary. This comment will be included in the Final EIR and made available to decision makers prior to a final decision on the project.

O14-5 The comment suggests that the County should not continue to process a project, which is currently under review by the County. The commenter also suggests that that project may be attempting to tier off the CAP prior to its approval. The commenter expresses concern but does not provide any evidence that tiering is occurring. Furthermore, the referenced project is not tiering from the CAP. The Newland Sierra project released a Draft EIR that was circulated for public review from June 15, 2017 to August 14, 2017. As described therein, it does not tier from or otherwise use a draft document (the Draft CAP) to evaluate its GHG emissions. The comment does not address the adequacy of the SEIR and, therefore, no further response is required or necessary.

O14-6 The comment asserts an opinion about a project under review by the County and the adequacy of that project’s mitigation. This comment is not related to the CAP or adequacy of the Draft SEIR and, therefore, no further response is required or necessary. This comment will be included in the Final EIR and made available to decision makers prior to a final decision on the project.

O14-7 The comment sets forth the mitigation framework for projects that would not comply with the underlying land use assumptions of the CAP (i.e., GPAs). This portion of the comment does not raise issue with the analysis within the Draft SEIR. It also asserts an opinion about a project under review by the County. The County acknowledges this comment. This comment is not related to the CAP or adequacy of the Draft

	<p>SEIR and, therefore, no further response is required. This comment will be included in the Final EIR and made available to decision makers prior to a final decision on the project.</p> <p>O14-8 The comment states that the CAP does not contain a “true up” provision. The commenter is conflating the analysis of a development project to the project at hand. The CAP is a programmatic document intended to reduce GHG emissions from County operations and new and existing development and activities occurring within the jurisdiction. The CAP, however, is inherently designed to be adaptable. As newer technologies become available, the CAP is afforded the flexibility to take credit for those emissions reductions. The commenter also states that sprawl projects that cause significant GHG emissions from long automobile trips should not be allowed to bypass GHG reduction measures included in the CAP. The County disagrees with this assertion. The CAP is not adopted at this time, and therefore the County does not have the ability to require the project to comply with the CAP. Additionally, the project that the commenter refers to is not included in the baseline GHG emissions inventory or in future GHG emissions projections. As described on pages 2.7-37 through 2.7-40 of the Draft SEIR, General Plan Amendments (GPAs) would be required to mitigate for all incremental GHG emissions that would result above what the 2011 GPU PEIR evaluated. Therefore, GPA projects would not threaten the achievement of GHG emissions reduction targets established by the CAP. This comment does not address the adequacy of the Draft SEIR, and, therefore, no further response is required or necessary. This comment will be included in the Final EIR and made available to decision makers prior to a final decision on the project.</p>
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subsequent to the time in which the County set the requirement for the CAP but prior to actual approval almost seven years later.

The offset requirements and assurances in the CAP provide more certainty of achieving GHG emissions reductions than in Newland's flawed "net zero" approach. Thus, the County should abstain from processing the Newland Project until the CAP is completed.

II. GHG REDUCTIONS SHOULD BE PRIORITIZED WITHIN THE COUNTY

The County's General Plan prioritizes GHG emissions reductions within San Diego County. In 2011, following approximately ten years of substantial input from numerous stakeholders and citizen groups, the County approved an update to its General Plan. (San Diego County General Plan at pp. 1-2.) In the EIR for the General Plan, the County concluded that the GHG and climate change impacts from the County's operations and from community sources were "potentially significant"—that without mitigation the County would fail to comply with AB 32, which requires the State to lower its GHG emissions to 1990 levels by 2020. As a result, the General Plan EIR included mitigation measures for GHG and climate change impacts, including the adoption of a CAP. (San Diego County General Plan, Mitigation Measure CC-1.2.) The CAP, therefore, was intended to mitigate impacts from GHG emissions *within San Diego County*. In addition, Goal COS-20 of the General Plan prioritizes "[r]eduction of *local* GHG emissions contributing to climate change that meet or exceed requirements of the Global Warming Solutions Act of 2006." (Emphasis added.)

The CAP provides the following 2020 and 2030 adjusted reduction targets and 2050 goal for emissions *in the County*: two percent below 2014 levels by 2020; 40% below 2014 levels by 2030; and 77 percent below 2014 levels by 2050. (CAP at 2-11.) "[T]o meet the 2030 target and 2050 goal, the County will need to achieve a reduction of 897,237 MTCO₂e by 2030 and 2,253,066 MTCO₂e by 2050 beyond legislative-adjusted projections. To close the emissions gap shown in Figure 2.3, this CAP proposes 11 strategies and 29 measures that the County would implement to reduce GHG emissions." (CAP at 2-14.)

The State of California has set an example for all other jurisdictions by making bold commitments to reduce greenhouse gas emissions. The County has explicitly made commitments to reduce emissions in the County consistent with its share of reductions needed for the State to achieve its goals. However, we note that the County has not demonstrated substantial evidence to support the availability of offsets within the County. While the language in the CAP states that the County will fund and implement investment projects, there is no evidence or assurance to suggest that the County is making the investment. Allowing payment for offsets to occur outside of the County is akin to the medieval payment for indulgences. A one-time payment should not absolve emitters for their GHG emissions that occur within the County. The County made a promise to reduce emissions within the County; it should uphold that promise for the benefit of its residents who expect a local reduction in GHGs and copollutants based on the County's plans. There must be some assurance that offset projects will occur within the project site or the County. While we understand each project is unique, the County should incorporate a standard into its offset priorities to promote GHG reductions within the County; otherwise project proponents may be incentivized to devote all or almost all of the

O14-8
cont.

O14-9

O14-10

O14-11

O14-9 The comment asserts the CAP offset requirements and assurances in the CAP provide certainty of achieving GHG emissions reductions. In addition, the commenter asserts an opinion about a project under review by the County. The comment is about another project and is not related to the CAP or adequacy of the Draft SEIR and, therefore, no further response is required. This comment will be included in the Final EIR and made available to decision makers prior to a final decision on the project.

O14-10 The comment provides background information about the 2011 GPU. It also paraphrases 2011 GPU Mitigation Measure CC-1.2 and Goal COS-20 that require measures to reduce local GHG emissions. The CAP does this through inclusion of the 30 GHG reduction measures that would meet the 2020 and 2030 targets as required in the 2011 GPU. Please also see Master Response 13 and Response to Comment O22-8. This comment is not related to the CAP or adequacy of the Draft SEIR and no further response is required.

O14-11 The comment restates information provided in the CAP and asserts that the County has not provided substantial evidence to support the availability or funding of local direct investments in the County. The commenter suggests issues with allowing payment for carbon offset credits to occur outside of the County. The commenter confuses GHG Reduction Measure T-4.1, which requires the County to fund/implement and register local direct investment projects in the unincorporated county, with the CAP Mitigation Measure M-GHG-1 within the Draft SEIR. See Master Response 3 for an explanation related to GHG Reduction Measure T-4.1 and local direct investments and the attachment to the Planning Commission Hearing Report called the Preliminary Assessment of the County of San Diego Local Direct Investment Program which provides a preliminary investigation into the costs and opportunities available with regard to the establishment of a local direct investment program. Please also see The Climate Action Plan Implementation Cost Report: A Preliminary Estimate of County of San Diego Costs for the Five-Year Forecast, summarized below and attached to the Planning Commission Hearing

	<p>Report, which describes a preliminary estimate of costs and benefits related to the implementation of the CAP as a whole. Information related to the costs to implement GHG Reduction Measure T-4.1 is included in the first report.</p> <p>Separately, the CAP Mitigation Measure M-GHG-1, requires a project that increases density or intensity above what is allowed in the 2011 GPU to mitigate GHG emissions first through all feasible on-site design features and then through off-site mitigation, which may include the purchase of carbon offset credits. See Master Response 12 for an explanation of mitigation hierarchy and the use of carbon offsets for projects, which provides substantial evidence for the use of carbon offsets.</p> <p>The County initiated a Climate Action Plan Implementation Cost Report (Report), which indicates a total \$236.4 million to implement the Final CAP in the first six years. Ninety percent of the costs (\$212.1 million) are existing, funded activities and programs that the County is leveraging to achieve GHG reductions and that would be undertaken with or without a CAP. The new and expanded activities and programs, estimated at \$24.3 million, are 10% of the total cost to implement the draft Final CAP in the first six years. Key findings from the analysis include:</p> <ul style="list-style-type: none"> a. Total implementation costs are steady over the six-year period; b. Existing programs account for a significant portion of implementation costs; c. Incremental implementation costs are comparatively low; d. A limited number of incremental programs are unfunded; and e. Current staffing levels are sufficient to cover most of the implementation activities. <p>The County's consultant, the Energy Policy Initiatives Center (EPIC), developed the Report, which estimates the County costs over a six-year period from FY 2017-18 through FY 2022-23, and identifies the potential budget impacts in the first years of CAP implementation. The costs will be reflected in the</p>
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	<p>County's Operational Plan for FY 2018-19 and FY 2019-20. Through implementation and monitoring, including the five-year CAP updates and annual progress reporting, the County will track implementation efforts and reassess costs to synchronize with the budget process. The County will also leverage financing sources by monitoring funding opportunities and mechanisms.</p>
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resources to offsets occurring outside of the County. The County should consider at least the following methods for ensuring a certain level of offsets occur within the County in addition to any others that would promote offsets within the County:

- A bright-line percentage requirement for offsets to occur within San Diego County, or if this is deemed infeasible, a proportionate dollar amount or fee paid to facilitate GHG emissions reductions within the County;
- A bonus structure similar to a density bonus approach, that allows greater use of offsets for projects located in infill areas or close to existing transit;
- A more regimented set of findings describing the infeasibility of on-site offsets or offsets within the County that the County must make for a proposed project before it is allowed to use offsets outside of the County;
- A requirement that each project must specifically identify available offsets that the project will use within the County prior to approval; or
- A requirement that each project must meet a defined, impartial criteria, such as LEED Platinum.

III. THE CAP MUST PROVIDE ASSURANCES FOR OFFSETS

Regardless of where offsets occur, the County must provide assurances that the offset projects will achieve their projected reductions. The CAP provides, “[a]fter adoption, the CAP will continue to be maintained by the County Department of Planning & Development Services (PDS). Key staff in PDS, with active participation and assistance from the Sustainability Task Force, will facilitate and oversee implementation, monitoring, and reporting on the progress of each measure.” (CAP at 5-2.) It is unclear if such monitoring extends to the offsets, or how the County staff will be able to monitor offset projects that may occur on the other side of the world. In addition, it unclear if the County has any mechanism to enforce offsets in other jurisdictions; therefore, it is unclear if the mitigation is actually enforceable. The CAP should provide detailed information on how the County will ensure monitoring and reporting of the mitigation projects funded by offsets, as mere funding by itself does not equate to mitigation. (See *Kings County Farm Bureau v. City of Hanford* (1990) 221 Cal.App.3d 692.)

Moreover, the CAP should ensure that the County is able to meet its 2050 emissions reduction goals that extend to 2050. (CAP at 1-2.) While the CAP maintains that it “demonstrates how the County will achieve GHG emissions targets for 2020 and 2030, and demonstrate progress to 2050,” (CAP at 1-13) it is unclear how the 2050 target will be met if General Plan Amendments approved in the near future only provide mitigation assurances to 2048 (assuming approval of the CAP in 2018). The Appendix B to the DSEIR provides:

Adherence to the protocols listed in this Appendix, as well as any additional protocols subject to the same standards as the protocols

O14-12

O14-13

O14-14

O14-12 The commenter suggests a list of requirements to consider to ensure a certain level of carbon offset credits are available within the County. The commenter refers to the CAP Mitigation Measure M-GHG-1, which sets forth standards for GHG mitigation, which include a geographic priority. Refer to Master Response 12 related to this topic. CAP Mitigation Measure M-GHG-1 requires the following geographic priorities for GHG reduction features, and GHG reduction projects and programs to the satisfaction of the Director of Planning & Development Services: 1) project design features/on-site reduction measures; 2) off-site within the unincorporated areas of the County of San Diego; 3) off-site within the County of San Diego; 4) off-site within the State of California; 5) off-site within the United States; and 6) off-site internationally.

The County requires use of California Air Resources Board (CARB)-approved registries, such as the Climate Action Reserve, Verified Carbon Standard, and American Carbon Registry (see SEIR Section 2.7.5.1). The County performed a search of these registries for location of the projects that are listed to sell carbon credits. At the time of this writing, there is one project out of approximately 650 projects listed on CARB-approved registries located within San Diego County. The project is a reforestation project located in Cuyamaca State Park and the credits are not listed because the trees have not reached maturity. Therefore, there is very little opportunity currently to purchase carbon offset credits within San Diego County.

It is also important to note that GHG emissions is a global, cumulative impact. This was recently acknowledged by the California Supreme Court (see *Center for Biological Diversity et al., v. California Department of Fish and Wildlife, and The Newhall Land and Farming Company*, 62 Cal. 4th 204 (2015)). Page 11 of the Supreme Court ruling states that “First, because of the global scale of climate change, any one project’s contribution is unlikely to be significant by itself...With respect to climate change, an individual project’s emissions will most likely not have any appreciable impact on the global problem by themselves, but they will contribute to the significant

	<p>cumulative impact caused by greenhouse gas emissions from other sources around the globe...Second, the global scope of climate change and the fact that carbon dioxide and other greenhouse gases, once released into the atmosphere, are not contained in the local area of their emission means that the impacts to be evaluated are also global rather than local.” Thus, emissions released from within the County do not remain local. It is erroneous to conclude offsite offsets do not contribute to the County meetings its share of GHG reductions or mitigate GHG impacts. The CAP and Draft SEIR are also program-level documents (see Master Response 10). The commenter’s recommendations are more appropriately applied at the project level at future discretionary review when feasibility of the geographic priority of GHG measures and mitigation is more appropriately determined. However, the CAP and Draft SEIR set up a mitigation framework for subsequent projects to adhere to. Please refer to Master Response 10 regarding use of a program level EIR and subsequent streamlining under CEQA.</p> <p>The commenter suggests a requirement for a bright-line percentage requirement for offsets to occur within San Diego County, or if this is deemed infeasible, a proportionate dollar amount or fee paid to facilitate GHG emissions reductions in the County. At the program level, there are many variations of ways that projects can achieve GHG emissions reductions and potentially use carbon credit offsets, and many factors that projects consider in implementing GHG mitigation. Without project-level information, it would be too speculative to determine at this time how potential factors including regulations or changes in technology could impact the availability of mitigation. This is due to a wide range of offset protocols and projects that could be deployed, their reduction potential which is unknown at the CAP program-level analysis, and limited availability of offset projects locally at this time. It would not be appropriate to establish bright-line percentage requirement for offsets that would be county-wide. To set a bright-line percentage, would potentially limit the amount of GHG emissions reductions that a project would achieve and</p>
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	<p>may require the County to inappropriately weigh the GHG reductions against other benefits of a project. See Master Response 12 related to the mitigation hierarchy and use of carbon offset credits.</p> <p>This requirement is more appropriately analyzed at the project level, when the specific factors of a project are known. For example, the South Coast Air Quality Management District assigned a similar bright-line threshold for the purchase of carbon offsets and carbon offset programs for the Newhall Ranch Project in Santa Clarita (see https://www.wildlife.ca.gov/regions/5/newhall). CAP Mitigation Measure M-GHG-1 establishes a similar geographic priority to capture co-benefits of mitigation to reduce impacts from global climate change. Further, there have been seven Assembly Bill 900 (AB 900) projects certified by the Governor of California as economic development and environmental leadership projects. All but one of these projects is required to purchase carbon offsets without a list of geographic priority. The Natural Resources Agency in their <i>Final Statement of Reasons for Regulatory Action</i> amending the CEQA Guidelines to address GHG emissions pursuant to Senate Bill 97 expressly rejected invitations to establish any sort of mitigation hierarchy for GHG emissions in CEQA Guidelines Section 15126.4(c):</p> <p style="padding-left: 40px;">“OPR and the Resources Agency recognize that there may be circumstances in which requiring on-site mitigation may result in various co-benefits for the project and local community, and that monitoring the implementation of such measures may be easier. However, CEQA leaves the determination of the precise method of mitigation to the discretion of lead agencies.”</p> <p>The County believes this determination is best evaluated at the project level and CAP Mitigation Measure M-GHG-1 provides the framework for subsequent projects to implement.</p> <p>Other suggestions made by the commenter include establishing a bonus structure where greater use of offsets could occur for infill areas or areas near transit; requirements for detailed findings describing the infeasibility of on-site offsets; requirements that individual projects specifically</p>
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	<p>identify the offsets within the County that the project would use within the County prior to approval; and requirements that each project must meet a defined, impartial criteria, such as LEED Platinum. As stated above, these requirements are more appropriately analyzed at the project level when the County can evaluate the feasibility of each project, when the specific factors of a project are known.</p> <p>O14-13 The comment asserts that the CAP should provide more details about the effectiveness of the carbon offset credits and where they are available. The commenter suggests that it is unclear if the monitoring required in the CAP extends to the purchase of carbon offset credits and suggest that it's unclear if the County has a mechanism to enforce offsets in other jurisdictions making CAP Mitigation Measure M-GHG-1 unenforceable. Please refer to Master Response 12 for mitigation hierarchy and use of carbon offsets. Purchase of carbon offset credits is only allowed under CAP Mitigation Measure M-GHG-1 of the Final SEIR after the established mitigation hierarchy has been applied and is required for GPAs to reduce their emissions to ensure that they do not conflict with the CAP projections. As stated in CAP Mitigation Measure M-GHG-1, carbon offset credits must be purchased through specified registries as follows: (i) a CARB-approved registry, such as the Climate Action Reserve, the American Carbon Registry, and the Verified Carbon Standard, (ii) any registry approved by CARB to act as a registry under the state's cap-and-trade program, (iii) through the CAPCOA GHG Rx and the SDAPCD, or (iv) if no registry is in existence as identified in options (i), (ii), or (iii), above, then any other reputable registry or entity that issues carbon offsets consistent with Cal. Health & Saf. Code section 38562(d)(1)), to the satisfaction of the Director of PDS. Cal. Health & Saf. Code section 38562(d)(1) specifies that carbon offsets shall achieve real, permanent, quantifiable, verifiable, and enforceable reductions. GPAs would be required to provide a comprehensive mitigation program and provide evidence of the GHG emissions that would be reduced through the implementation of project-specific mitigation measures. If carbon offset credits were</p>
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	<p>purchased to offset any remaining incremental emissions, the offsets would need to be vetted and substantiated to ensure that the offsets are representative of retired credits offsite. Monitoring of these offsets would occur under the Mitigation Monitoring and Reporting Program for the GPAs' CEQA documents.</p> <p>The commenter expresses the concern that CAP Mitigation Measure M-GHG-1 as provided in the Final SEIR is unenforceable. The County does not agree. The CARB-approved registries (e.g., Climate Action Reserve) undertake the mitigation to ensure that emissions are offset from projects listed on their registries. An activity can only generate carbon offset credits if the project developer demonstrates the environmental integrity of the activity by meeting specific standards. Carbon offset registries have developed a broad consensus around the standards that are necessary to ensure that offsets are real, permanent, quantifiable, verifiable, enforceable, and additional.</p> <p>These are further defined as follows:</p> <p><u>Real</u>: offsets may only be issued for emissions reductions that are a result of complete emissions accounting.</p> <p><u>Permanent</u>: the emissions reductions must be permanent and not be reversed. For example, in the context of forestry, offset project developers must demonstrate that the carbon sequestered in trees will not be released to the atmosphere after the fact; i.e., that the trees will not be cut down (see SEIR, Appendix B, Part 3, starting on pages 1 and pages 133; also see SEIR Page 2.7-25).</p> <p><u>Quantifiable</u>: the emissions reductions from an activity must be quantified, and offsets may only be issued in an amount that corresponds to emissions that have been quantified. This is accomplished by adhering to standardized quantification methodologies called "protocols," which are discussed in SEIR Chapter 2.7 and detailed in Appendix B of the SEIR.</p> <p><u>Validated</u>: to receive offset credits, emission reductions must be documented and transparent enough to be capable of objective review by a neutral, third party verifier.</p>
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	<p><u>Enforceable</u>: to be eligible to generate offsets from reputable programs, the implementation of the activity must represent the legally binding commitment of the offset project developer. Once the developer undertakes the activity, the developer is under a legal obligation to carry it out.</p> <p><u>Additional</u>: the GHG emissions reductions generated by an activity must be additional, meaning that they are only eligible to generate offsets if they would not have occurred without the offset activity. This is accomplished by adhering to the applicable protocol, as detailed in SEIR Appendix B.</p> <p>Carbon offset protocols (see Appendix B) have been upheld by the courts. In <i>Our Children's Earth Foundation v. CARB</i> (2015) 234 Cal.App.4th 870, 880, the First Appellate District recognized the validity of carbon offsets:</p> <p>[P]rotocols developed by the Climate Action Reserve (Reserve) employ a standards-based approach for ensuring additionality. The Reserve is a national nonprofit organization that (1) develops standards for evaluating, verifying and monitoring GHG emission inventories and reduction projects in North America; (2) issues offset credits for those projects; and (3) tracks offset credits over time "in a transparent, publicly-accessible system." A primary goal of the Reserve is to establish conservative GHG accounting which will ensure that GHG emission reductions are "real, permanent, additional, verifiable, and enforceable by contract." In formulating its standards-based protocols, the Reserve identifies types of emission reduction projects that are both subject to quantification and appropriate for assessment pursuant to performance-based additionality tests.</p> <p>In 2011, CARB formally adopted its own protocols (for example, see Appendix B of the SEIR, Part 5 pages 101-160 compared to Part 4, pages 220-310). CARB's protocols were challenged as violating AB 32 because they purportedly failed to accurately ensure additionality as required by the act, but the court sided with CARB, finding that CARB's protocols based on Climate Action Reserve's protocols are a "workable</p>
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	<p>method of ensuring additionality with respect to offset credits.” (Our Children’s Earth Foundation at p. 889) CARB has since expanded its program to accept carbon offsets issued under American Carbon Registry and Verified Carbon Standard methodologies (See, e.g., Cal. Code Regs., Tit. 17, Section 95990(c)(5)).</p> <p>The appropriateness of using offsets as CEQA mitigation for GHG emissions is established in CEQA Guidelines Section 15126.4(c)(3), which provides that “off-site measures, including offsets that are not otherwise required,” can be used to mitigate a project’s GHG emissions. In promulgating the CEQA Guidelines for GHG mitigation, the California Natural Resources Agency and the Governor’s Office of Planning and Research (OPR) addressed the legitimacy of offsets as follows:</p> <p style="padding-left: 40px;">The Initial Statement of Reasons...cites several sources discussing examples of offsets being used in a CEQA context. Further, the CARB Scoping Plan describes offsets as way to provide regulated entities a source of low-cost emission reductions, and ... encourage the spread of clean, efficient technology within and outside California. The Natural Resources Agency finds that the offset concept is consistent with the existing CEQA Guidelines’ definition of “mitigation,” which includes “[r]ectifying the impact by repairing, rehabilitating, or restoring the impacted environment” and “[c]ompensating for the impact by replacing or providing substitute resources or environments.”</p> <p>Moreover, under AB 900, the Jobs and Economic Improvement through Environmental Leadership Act, certain CEQA streamlining benefits were provided to “environmental leadership” projects. One of the key conditions was that such projects offset all emissions to be GHG neutral. (Pub. Resources Code Section 21183(c)) To date, seven AB 900 projects have been certified by the Governor of California and all but one of them use carbon offsets to achieve nonet new GHG emissions. The County of San Diego Board of Supervisors approved the Soitec Solar Energy Project (an AB</p>
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	<p>900 project) in 2015 with conditions to purchase carbon offset credits and the Park Circle, Sweetwater Place, and Sweetwater Vistas projects in 2017 with conditions of approval to purchase carbon offsets.</p> <p>For all the reasons stated above and throughout the Final SEIR, the County believes that the allowance of offsets in CAP Mitigation Measure M-GHG-1 is enforceable and monitoring would occur under the Mitigation Monitoring and Reporting Program for the GPAs' CEQA documents.</p> <p>O14-14 The comment asserts that the CAP should ensure that the County can meet its 2050 GHG emissions reduction goal. The comment erroneously characterizes the 2050 reduction goal as a "target." The CAP makes a distinction between the 2020 and 2030 reduction targets and the 2050 reduction goal (see Pages 2-10 and 3-2 of the CAP). As stated on Page 2-10 of the CAP, the plan primarily focuses on reducing emissions by 2020 and 2030, consistent with legislatively-adopted State targets. The County acknowledges that while it is important to create a long-term emissions reduction goal, it would be speculative to demonstrate achievement of a goal for 2050 with the information known today due to uncertainty around future technological advances and future changes in federal and State law beyond 2030. California's GHG reduction targets have been legislatively adopted for 2020 and 2030, while the 2050 goal is expressed in an Executive Order. In addition, <i>The 2017 Climate Change Scoping Plan Update</i> (Scoping Plan Update) is focused on meeting the 2030 reduction target, as directed in SB 32 and AB 32. Therefore, the County's CAP aligns with the State in setting a 2030 target. As climate change science and policy continues to evolve, the County will be able to apply new reductions toward meeting the long-term 2050 GHG emissions reduction goal in future CAP updates. The CAP demonstrates a good faith effort at striving to meet the 2050 goal, and discloses why it cannot be met at this time, recognizing this as a significant unmitigated impact. The comment confuses the local direct investment measure (GHG Reduction Measure T-4.1) with the requirement as stated in CAP Mitigation Measure M-GHG-1 that projects purchase</p>
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carbon offset credits for the life of the project, which is 30 years (see Page 2.7-37 of the Final SEIR). Please refer to response to comment O11-3. The commenter quotes the introduction to Appendix B out of context. Appendix B provides support for the County's local direct investment projects through CARB-approved protocols. While these same protocols may be relied upon for purchasing carbon offset credits as required under CAP Mitigation Measure M-GHG-1, the introduction to Appendix B applies only to how the County will ensure tracking and enforceability of GHG Reduction Measure T-4.1. Further, the commenter assumes that a GPA approved in 2018 would only be required to mitigate to 2048 (30-year project life). However, this does not apply to GHG Reduction Measure T-4.1, which would require the County to fund/implement local direct investments to reduce emissions in the unincorporated county by 2030. Please also see Master Response 3 related to direct investments.

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herein, ensures that the carbon reductions generated by CAP Measure T-4.1 are real, permanent, quantifiable, verifiable, and enforceable. Carbon offset registries require projects to comply with approved protocols using rigorous, standardized review processes. The protocols contain rules and procedures governing the retirement or cancellation of carbon offsets. Protocols and processes ensure that offsets retired from County direct investment projects pursuant to CAP Measure T-4.1 and listed on an offset registry satisfy the environmental integrity criteria established by the offset protocols. Carbon offsets achieved through implementation of Measure T-4.1 must be complete and retired before the County can take reduction credits. A registry will ensure that carbon offsets are retired in perpetuity.

(Appendix B at p. i.)

The County should provide similar assurances for General Plan Amendments approved using offsets. The CAP prioritizes “local projects that would offset carbon emissions within the unincorporated county.” (Strategy T-4, DSEIR at p. 2.7-17.) The County must ensure General Plan Amendments are held to the same standards as the County’s own offset projects. Moreover, the County should consider whether and how to ensure mitigation for General Plan Amendment offset projects is continued beyond the 30-year out year. If there are no assurances that the offset projects will continue beyond their specified expiration date or for the full term of the County’s planning period specified in the proposed CAP then, the County is not accurately calculating what the projects’ overall GHG impacts will be for the full term of the County’s planning period specified in the CAP. If the offset projects are no longer operational after their prescribed term or potential expiration date, then the County should carefully consider whether it is still accurate for the County to assume that the GHG emissions from the offset projects can be counted as part of any project’s overall reduction in GHG emissions during the County’s full planning period specified in the CAP.

As such, the County should consider whether to provide assurances that funding for offset mitigation projects will continue, lest the County experience a significant spike in GHG emissions once the funding for offset projects has concluded and they are no longer operational. (See *Cleveland National Forest v. San Diego Assn. of Governments* (2017) 3 Cal.5th 497, 514 [an EIR must adequately describe the nature and magnitude of the adverse effect].) In any event, if the County is proposing to allow offset projects which expire or may no longer be enforceable before the end of the County’s planning period used in the CAP, then the potential increases when these offset project may “expire” should be counted in the County’s overall numerical calculations in the CAP including expected GHG increases due to expiring offset agreements. As the Court of Appeal stated in *Sierra Club v. County of San Diego* (2015) 231 Cal.App.4th 1152, 1170: “Quantifying GHG reduction measures is not synonymous with implementing them. Whether a measure is effective requires not just quantification, but also an assessment of the likelihood of implementation.” Likewise, if offsets counted on by the CAP as a GHG reduction measure are likely or possibly going to expire before the end of the CAP’s planning

O14-14
cont.

O14-15

O14-16

O14-15 The comment asserts that the County is not appropriately calculating the total emissions impacts of GPA projects and that carbon offset credits used to mitigate GPA impacts must be ensured to last for the lifetime of the project. The commenter confuses the local direct investment program required by GHG Reduction Measure T-4.1 with the requirement for GPAs to offset global emissions from cumulative impacts by using carbon offset credits. For information related to Measure T-4.1, please see Response to Comment O14-10, above and Master Response to Comment 3. Refer to Master Response 12 for mitigation hierarchy and use of carbon offset credits and comments O14-11 through 14. The commenter requests that the County consider whether and how to ensure mitigation for GPAs is continued beyond the 30-year project life. Please see Response to Comment O14-13 and O14-14. On the adequacy of the 30-year project life, see Response to Comment O12-20. The comment assumes that the 30-year project life for carbon offset credits for GPAs would not align with the plan horizon of 2050. This assumption is predicated on the premise that all in-process and future GPAs would begin purchase of offsets in 2018, concurrent with potential CAP adoption. CAP Mitigation Measure M-GHG-1 requires that evidence of offset purchase of retirement be provided prior to issuance of the project’s first grading permit for construction GHG emissions, and prior to issuance of the first building permit for operational GHG emissions. It is highly unlikely that all projects approved by the Board of Supervisors between 2018 and 2020 would also apply for grading permits and building permits in the same year(s). In reality, there is typically a lag between project approval and issuance of permits depending upon market conditions and phasing of development. CAP Mitigation Measure M-GHG-1 also applies to future GPAs. By the same token, a future GPA that may be approved in 2025 would be required to offset its emissions beyond the 2050 horizon. Therefore, the County disagrees that purchase of carbon offset credits would be misaligned with the CAP planning period. See Response to Comment O14-16 on the CAP planning period.

O14-16 This comment suggests that the County should make a commitment to funding the Local Direct Investment Program as required under GHG Reduction Measure T-4.1 through the planning period. Please refer to Master Response 3 for the Local Direct Investment Program and comment O14-13. As indicated in GHG Reduction Measure T-4.1, the County would implement the direct investment measure by establishing a local direct investment program by 2020. After the program is established in 2020, the County would implement the local direct investment measures by 2030. Therefore, the County would reduce GHG emissions from these direct investments through the planning period used in the CAP, starting in 2020 through to 2030. Please refer to Master Response 3 for more information related to GHG Reduction Measure T-4.1. On the adequacy of the 30-year life, see Response to Comment O12-20.

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period in 2050, or shortly thereafter, this should be disclosed to the public, since it is relevant to whether the mitigation measure will be implemented for the full planning period.

O14-16
cont.

IV. GHG INVENTORY AND REDUCTION STRATEGIES

A. GHG Inventory

The CAP's business as usual projections include "[g]rowth from General Plan Amendments "GPAs" adopted since adoption of the 2011 General Plan Update are also included in the projections." (CAP at 2-7.) "The GHG emissions inventory for the CAP does not include emissions attributable to proposed GPAs that would increase density/intensity above what is allowed in the General Plan. Even though there were GPAs that were adopted between 2011 (adoption of 2011 General Plan Update) and 2014 (inventory baseline year), none of these GPAs were constructed by 2014 and; therefore, their GHG emissions are not included in the 2014 inventory. The 2014 inventory is based on emissions-generating activities that existed on the ground in 2014." (CAP at 2-14.)

O14-17

The Draft SEIR's Mitigation Measure GHG-1 applies to all future General Plan Amendments, including those discussed in the cumulative impacts section. The County maintains that with the inclusion of this mitigation measure, all future GPAs will not interfere with the County's reduction targets or 2050 goal. (CAP at 2-14.) The County thus concludes that "General Plan Amendments would, therefore, comply with the threshold of significance, which is consistency with the CAP." (CAP at 2-14.) However, there is not enough information presented in the DSEIR or CAP to ascertain the veracity of this conclusion. A project-by-project breakdown of emissions from each project appears to be missing from the CAP and DSEIR.

O14-18

B. Transportation Reductions

The County concludes that it "has limited options under its control for implementing transportation-based strategies," despite acknowledging that on-road transportation is the largest source of GHG emissions in the County. (CAP at 3-3.) The County should ensure future projects are located in infill locations close to existing transit, in addition to exploring additional methods of implementing transportation-based strategies to reduce the County's reliance on single-occupant vehicles. The CAP provides strategies to reduce VMTs, and notes that the General Plan provides "a framework to accommodate future development in an efficient and sustainable manner that is compatible with the character of unincorporated communities and the protection of valuable and sensitive natural resources. In accommodating growth, the County focuses on the provision of diverse housing choices while protecting the established character of existing urban and rural neighborhoods." (CAP at 3-9.)

O14-19

Further, Strategy T-1 provides, "This strategy focuses on preserving open space and agricultural lands, and focusing density in the county villages. By not developing housing in the more remote areas, the county will avoid GHG emissions from transportation and energy use associated with conveyance of water and solid waste services. Reductions in Vehicle Miles Traveled (VMT) resulting from this strategy will also improve air quality through reduced

O14-20

O14-17 This comment restates information provided in the CAP. No further response is required.

O14-18 The comment asserts that the Draft SEIR has not provided enough information to conclude that GPA projects will not interfere with the County's reduction targets or 2050 goal with implementation of CAP Mitigation Measure M-GHG-1 and suggests a project-by-project analysis be provided. The comment does not provide evidence that supports the assertion, therefore, no further response is required or necessary. Under CAP Mitigation Measure M-GHG-1, The County shall require in-process and future GPAs to reduce their emissions to ensure that CAP emission forecasts are not substantially altered such that attainment of GHG reduction targets could not be achieved. These projects would need to either achieve no net increase in GHG emissions from additional density above the 2011 GPU or reduce all project GHG emissions to zero to achieve no net increase over baseline conditions (i.e., carbon neutrality). The GPA would ensure that CAP emission forecasts, and therefore achievement of reduction targets, are not substantially altered under either scenario. It appears the comment suggests that the CAP should evaluate on a project-specific basis the impacts of GPAs. The CAP is a county-wide, programmatic assessment of the actions and strategies the County would implement to reduce GHG emissions to meet reduction targets. A project-by-project evaluation of emissions for existing and proposed GPAs is not appropriate within the CAP. Moreover, the mitigation measure would apply to any future GPAs, the details of which cannot be known at this time. The mitigation measure is clear that GPAs achieve no net increase in GHG emissions over the 2011 GPU or no net increase over the baseline. The commenter asserts there is not enough information "to ascertain the veracity" of the County's statement that GPAs would be consistent with the CAP. This ignores the requirements of the mitigation measure. The CAP was prepared based on a county-wide emissions inventory of existing and projected future levels of GHG emissions based in existing and approved land uses within the 2011 GPU.

- O14-19** The comment asserts that to effectively decrease on-road transportation emissions, the County should only allow infill projects or projects close to existing transit and should focus on exploring other strategies to reduce reliance on single-occupancy-vehicles. To the first point, the County has established a land use plan for future development which was adopted with the 2011 GPU. Therefore, the County has already determined where growth will occur. To the second point, the County has evaluated and brought forward feasible strategies that address single-occupant vehicles. Please refer to Master Response 6 on transportation GHG reduction measures and VMT. The comment does not suggest other strategies for consideration; therefore, no further response can be provided or is necessary.
- O14-20** The comment restates information provided in the CAP. No further response is required.

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vehicle emissions and contribute to public health improvements by creating opportunities for active transportation choices.” (CAP at 3-9.)

O14-20
cont.

The County should ensure such strategies are appropriately implemented in all pending and future projects. In particular, the County should not allow the Newland Project, which would add over 28,000 daily trips in an area located far from existing transit, to move forward before the CAP is approved. This contravenes the CAP’s stated strategies and risks thwarting the CAP’s comprehensive approach. If the County allows the Newland Project to progress prior to adoption of the CAP, the County enables the Newland Project to avoid the CAP’s goal of “preserving open space and agricultural lands” by developing on a parcel currently zoned for a much lower level of density—primarily RL-20—than the project currently proposes.

O14-21

The CAP should also include requirements that land use decisions support smart growth development near existing infrastructure and transit and placing housing near jobs in order decrease GHG emissions from long automobile trips. One potential tool to support this approach would be to require General Plan Amendment projects to be consistent with the land use patterns used by SANDAG to general its Regional Transportation Plan and Sustainable Communities Strategy, which is intended reduce GHG emissions by linking land use and transportation planning pursuant to SB 375.

O14-22

C. Acquire Open Space Conservation Land

The CAP provides:

Acquisition of land by the County under the MSCP would reduce GHG emissions through preservation of land which can otherwise be developed. GHG emissions reductions are realized from reductions in transportation, energy use, waste, and water consumption. Preservation of these lands also helps protect watersheds, improve water quality, and preserves vegetation, which provides carbon sequestration benefits. Reductions for this measure are quantified based on the reduced development potential associated with preservation of lands. Future acquisitions beyond those targeted in this measure will reduce GHG emissions in the county, the benefit of which will be reflected in the County’s biennial GHG inventory updates.

O14-23

(CAP at 3-10.)

Additional details for this measure are required. For instance, how will the County calculate the reductions from this measure, but allow GPAs such as the Newland Project to move forward? Further, will the County count implementation of the North County MSCP as a potential reduction? If so, would this include a developed Newland Project? Doing so may amount to de facto project approval for the Newland Project prior to the completion of the environmental process, as the MSCP is currently in draft form. Further, the NC MSCP has not been approved and is not scheduled to go before the Board of Supervisors for a decision for

O14-21 The comment suggests that the County should ensure that strategies to preserve open space should be implemented by current and future projects. The comment also describes a project under review by the County and suggests this project risks thwarting the CAP’s comprehensive approach. The County acknowledges this comment. The comment addresses another project and does not relate to the adequacy of the Draft SEIR and, therefore, no response is required or necessary. This comment will be included in the Final EIR and made available to decision makers prior to a final decision on the project.

O14-22 The comment suggests that the CAP should include a requirement that land use decisions support smart growth development near existing infrastructure and transit, and places housing near jobs. The County acknowledges this comment. Please refer to Master Response 2 regarding SB 375 and consistency with regional plans. The comment does not relate to the adequacy of the Draft SEIR and, therefore, no response is required or necessary. This comment will be included in the Final EIR and made available to decision makers prior to a final decision on the project.

O14-23 The comment requests additional details about how GHG Reduction Measure T-1.1 will be implemented but raises no issues regarding the sufficiency of the EIR analysis. Please refer to response to comment O1-14. Emissions reductions from GHG Reduction Measure T-1.1 would be realized by the removal of development potential associated with undeveloped land once it is acquired or otherwise encumbered (such as through recordation of an open space easement) and put into the Preserve for the South County or future conservation areas. The 2030 anticipated GHG reductions associated with Measure T-1.1 are based on the historical annual average County land acquisitions in these three plan areas since 2011, and the related average number of dwelling units offset by the reduction in development potential (see Page 3 of Attachment to Appendix C to Climate Action Plan). Specifically, the GHG reductions will be realized from

	<p>reductions in transportation, energy use, waste, and water consumption achieved through preclusion of development.</p> <p>GHG Reduction Measure T-1.1 does not “allow General Plan Amendments”; it recognizes the emission reduction benefits of a complementary resource conservation program, the Multiple Species Conservation Program. GHG Reduction Measure T-1.1 does not account for North County Plan implementation as an emissions reduction measure, but rather, the actions taken thereunder: acquisition or recordation of an easement on areas that contain native species of wildlife or natural communities identified for preservation that precludes development that otherwise would occur under buildout of the General Plan.</p> <p>Open space achieved as a result of mitigation for development projects does not contribute to the emissions reductions anticipated under GHG Reduction Measure T-1.1. Projects that mitigate impacts to biological resources by recording an easement on areas that contain native species of wildlife or natural communities within their project boundaries would account that acreage to the MSCP Preserve goal, but it would not account as emissions reductions to achieve the CAP targets because development in that scenario has been realized. For emission reductions associated with property acquisitions or easements in support of the MSCP Preserve goal to be accounted for under the CAP, a net reduction in development potential associated with that acquisition or easement would be necessary.</p> <p>The comment is correct that the North County Plan has not been adopted. It is also correct in noting, once adopted by the County, the California Department of Fish and Wildlife and the U.S. Fish and Wildlife Service will need to issue permits to the County before the Plan is in effect.</p> <p>Emissions reductions associated with GHG Reduction Measure T-1.1 will be realized when property is acquired or an easement is recorded against real property and demonstrates a net reduction in development potential. To qualify for the MSCP Preserve, such property must be located within the Pre-Approved Mitigation Area (PAMA). To achieve the CAP targets, such property is not required to be located within the</p>
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PAMA. Acquisition of open space is not dependent upon adoption of the North County MSCP. The County's acquisition of land or easements to achieve a net loss in development potential to support GHG Reduction Measure T-1.1 can occur independently of MSCP Preserve assembly. The CAP is designed to be flexible so that as progress is monitored, regulations change, technology advances, and in this case if the North County MSCP is not adopted by the Board of Supervisors or the County meets its preserve assembly goals for the adopted South County Plan, adjustments can be made to the measures to achieve the 2020 and 2030 reduction targets. The County would prepare an annual monitoring report to assess the CAP measures' annual performance in achieving the stated targets, in addition to two-year updates of the GHG emissions baseline inventory. Based on findings from the annual monitoring reports and inventory updates, the County will prepare a CAP update every five years to adjust measures as-needed to achieve the targets.

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several more years. The NC MSCP must also be approved by the State and Federal Wildlife Agencies before taking effect. It is improper for the CAP to take credit for emissions reductions to be achieved by a plan or program that has not been approved. (*Vineyard Area Citizens for Responsible Growth, Inc., supra*, 40 Cal.4th at 440.)

We thank you for your time and attention to our comments. Please do not hesitate to contact us should you have any questions or comments.

Best regards,



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